

TITLE 2

LEGISLATIVE BRANCH CITY COUNCIL

Chapters:

- 2-1 General Provisions
 - 2-2 Official Seal
 - 2-3 2000 Census Council Districts
 - 2-4 Campaign Financial Disclosure
 - 2-5 Private Property Protection Act
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CHAPTER 2-1 GENERAL PROVISIONS

Sections:

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2-1-101. GOVERNMENT.

The government of the City is vested in the City Council, consisting of seven members, which shall be deemed the governing body of the City, and a City Manager appointed by the City Council.

2-1-102. COMPENSATION SCHEDULE.

- (1) The biweekly base compensation of the elected officials, statutory officers, and department heads of the City shall be according to a compensation schedule commencing at the amount shown below. The amounts do not include other compensation, such as retirement and medical benefits, which shall be included in the calculation of total compensation as part of the market study. Increases in compensation shall be given according to the annual market study conducted pursuant to the Personnel Policy and Procedures Manual. Also, annual incremental increases may be given based on merit, as provided in the Personnel Policy and Procedures Manual.

Mayor	\$600
Council Members	\$323
City Manager	\$2,345
Assistant City Manager	\$2,022
Finance Director	\$2,022
Recorder	\$2,022
Treasurer	\$1,475
Engineer / Public Works Director	\$2,022
Attorney	\$2,178
Fire Chief	\$2,022
Chief of Police	\$2,073
Community and Economic Development Director	\$2,022
Parks and Recreation Director	\$1,925

- (2) The Mayor shall receive a car allowance of at least \$250 per month. The Mayor Pro Tempore or any Council Member elected by the other members to act as Mayor in the absence of the Mayor and Mayor Pro Tempore shall receive the compensation for Mayor, including the car allowance when they are required to act in the capacity of Mayor for a continuous period of time in excess of 30 days. The increase in compensation shall include the 30-day time period and such additional time continuous thereafter as they are required to act in the capacity of Mayor. The compensation shall be at the same rate the Mayor is receiving at the time the Mayor Pro Tempore or other member is acting in such capacity.
- (3) The City Manager, in accordance with appropriate statutes, ordinances, resolutions, and the Personnel Policy and Procedures Manual, may grant such additional compensation, salary enhancements, technical adjustments, and bonuses as in the City Manager's best judgment and sole discretion are merited, and as authorized by the City Council in the budget.
- (4) The City Manager, in accordance with appropriate statutes, ordinances, resolutions, and policies may grant such salary enhancements, technical adjustments, and bonuses as in the City Manager's best judgment and sole discretion are merited.
- (5) City board and commission members shall receive a reasonable reimbursement for expenses, as set forth in the budget each fiscal year.

(Ord. No. 95-03 Amended 03/07/1995; Ord. No. 00-12 Amended 02/24/2000; Ord No. 06-64 Amended 9/19/2006)

2-1-103. MEETINGS.

- (1) The regular meetings of the City Council shall be held on the first four Tuesdays of each month, at 6:30 p.m., in the City Council Chambers, West Valley City Hall, 3600 Constitution Boulevard, West Valley City, Utah, unless otherwise changed by the City Council when the need arises.
- (2) The study sessions of the City Council shall be held on the first four Tuesdays of each month, at 4:30 p.m., West Valley City Hall, 3600 Constitution Boulevard, West Valley City, Utah, unless otherwise changed by the Council as the need arises.

(Ord. No. 98-75 Amended 01/10/1999; Ord. No. 00-17 Amended 05/01/2000; Ord. No. 05-54 Amended 12/06/2005; Ord. No. 06-15 Amended 3/07/2006)

2-1-104. SPECIAL MEETINGS.

Special meetings may be held as circumstances require when notice is given as required by Utah State law.

2-1-105. NOTICES.

All notices required by Utah State law to be given to City Council Members, press, and public shall be the responsibility of the City Recorder.

2-1-106. PRESIDING OFFICER.

The Mayor shall preside at all regular, study, and special meetings of the City Council. In the absence of the Mayor or in the event of the Mayor's inability or refusal to act, the Mayor Pro Tempore shall preside over the meeting or meetings and shall have all the powers and duties of the Mayor during the Mayor's absence or disability. At the first meeting of the City Council after the election of a Mayor, or after the expiration of the Mayor Pro Tempore's term if he or she is not reelected, the Council shall elect a Mayor Pro Tempore. The City Council may fill a vacancy in the office of Mayor or Mayor Pro Tempore in the manner prescribed by state law.

2-1-107. ADDRESSING MEETINGS.

- (1) No person shall address or attempt to address any regular, study, or special meeting of the City Council without first having been recognized by the presiding officer.
- (2) During each regular City Council meeting (specifically excluding work sessions), there will be a period not to exceed thirty minutes for citizen comment. The purpose of the citizen comment time is to allow citizen speakers to have direct input to the Council.
- (3) Before the citizen comment period, the Mayor shall instruct the audience and all potential speakers as follows:
 - a. Any person wishing to comment during the Citizen Comment Period shall request recognition by the Mayor;
 - b. Upon recognition, the citizen shall approach the microphone and address the Mayor;
 - c. All citizen comment shall be directed to the Mayor;
 - d. No person speaking during the Citizen Comment Period shall allow his or her comments to exceed 5 minutes;
 - e. No person addressing the City Council during the Citizen Comment Period shall be allowed to comment more than once per meeting;
 - f. Citizen speakers should not expect any debate or dialog with the Mayor, City Council or City Staff.
 - g. If a citizen or member of the audience violates the provisions of this section, a City officer or member of staff will be asked to remove that person from the meeting and the remainder of the meeting.
- (4) In addition to the above listed requirements, if a public hearing is scheduled for that meeting which has not occurred before the citizen comment time, the Mayor may request but not require the citizens to use the public hearing time rather than the citizen comment time to express their views concerning the subject matter of the public hearing.

(Ord. No. 03-75 Amended 12/02/2003)

2-1-108. DISTURBING MEETINGS.

The City Council may fine or expel any of its members for disorderly conduct upon a two-thirds vote of the members of the City Council. The City Council may also, upon a two-thirds vote, expel any person who is disorderly during any regular, study, or special meeting of the City Council.

2-1-109. ORDER OF BUSINESS.

The following rules shall govern the proceedings of the City Council. The quorum being present, the City Council shall proceed to transact the business before it in the following manner, unless the same is temporarily suspended by unanimous consent.

- (1) Call to order.
- (2) Opening ceremonies.
- (3) Roll call.
- (4) Consideration of minutes of preceding meeting or meetings and correction and approval of same, unless by consent dispensed with.
- (5) Ceremonies and proclamations.
- (6) Reports, correspondence, and communications.
- (7) Public Comment Period
- (8) Public hearings and any action items related to the public hearing.
- (9) Ordinances.
- (10) Resolutions.
- (11) Unfinished business.
- (12) New business.
- (13) Adjournment.

(Ord. 03-75, Amended, 12/02/2003; Ord No. 06-64 Amended 9/19/2006)

2-1-110. RULES OF ORDER.

Robert's Rules of Order shall govern the proceedings of the City Council where applicable, when not in conflict with statutes or ordinances, or modified by the City Council.

2-1-111. ENACTMENT OF MEASURES.

No ordinance, resolution, or proposition to create an office or position of employment or to incur an expenditure shall be passed without the same having been reduced to writing and submitted to a vote of the City Council in public session.

2-1-112. VOTES REQUIRED.

- (1) Four affirmative votes shall be required to pass any measure.
- (2) When there is a vacancy on the City Council, subsection (1) shall not apply and any vacant position shall not count towards determining the number needed to constitute a quorum.
- (3) For purposes of determining the number of members of the City Council needed to constitute a quorum in order to fill any vacancy pursuant to Section 20A-1-510 U.C.A. neither vacant positions nor members who are disqualified from participating in the process by subsection 20A-1-510(3) shall be counted.

(Ord. No. 02-45 Amended 08/06/2002)

CHAPTER 2-2 OFFICIAL SEAL

Sections:

- 2-2-101. Official Seal of West Valley City.
 - 2-2-102. City Recorder, Custodian of Seal.
 - 2-2-103. Use of Seal.
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2-2-101. OFFICIAL SEAL OF WEST VALLEY CITY.

The official seal for West Valley City shall be two ovals, one inside the other, with the words "West Valley City, Utah" and "Corporate Seal" written between the ovals, and in the center a vertical mirror image of a "W" above a "V", a facsimile of which is shown below:



2-2-102. CITY RECORDER, CUSTODIAN OF SEAL.

The City Recorder shall be the custodian of the official seal.

2-2-103. USE OF SEAL.

The City Recorder shall use the official seal in attesting to all ordinances and resolutions, countersigning all contracts, and in any other manner as required by state statute or by City ordinance or resolution.

CHAPTER 2-3

2000 CENSUS COUNCIL DISTRICTS

Sections:

- 2-3-101. 2000 Census.
 - 2-3-102. Definitions.
 - 2-3-103. Council Districts.
 - 2-3-104. Discrepancies and Official Map.
 - 2-3-105. Effective Date of Boundary Change.
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2-3-101. 2000 CENSUS.

The City Council adopts as the official data for the districting plan for West Valley City council districts the official census population figures and maps at the Bureau of the Census of the United States Department of Commerce, developed in connection with the taking of the 2000 National Decennial Census.

(Ord. No. 02-14 Amended 02/05/2002)

2-3-102. DEFINITIONS.

As used in this Chapter:

- (1) "Block" means the smallest geographical unit, the population of which was ascertained by the Bureau of Census and shown on its official maps.
- (2) "Census Tract" means the combination of blocks which are shown and numbered on the official Census Bureau maps.

(Ord. No. 02-14 Amended 02/05/2002)

2-3-103. COUNCIL DISTRICTS.

The City Council consists of seven members, four of which are elected from each council district. The number and boundaries of the council districts are designated and established as follows:

- (1) Council District No. 1 shall consist of the following Salt Lake County Census Tracts and Blocks:
 - a. Census Tracts 1133.05, 1133.06, 1135.09; Census Tract 1133.07, Blocks 1000, 1001, 1002, 1003, 1004, 1005, 1006, 1007, 1008, 1009, 1010, 1011, 1012, 1013, 1015, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 3000, 3001, 3011, 3012, 3013, 3014, 4000, 4001, 4002, 4003, 4004, 4005, 4006, 4027, 4028, 4029, 4030, 4031, 4032, 4033, 4034, 4035, 4036, 4037; Census Tract 1133.08, Blocks 1000, 1001, 1002, 1003, 1004, 1005, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021; Census Tract 1133.04, Blocks 1000, 1001, 1002, 1003, 1004, 1005, 1006, 1007, 1008, 1009, 1010, 1011, 1012, 1013, 2000, 2001, 2002, 2003, 2004, 2005, 3000, 3001, 3002, 3003, 3004, 3005, 3006, 3007, 3008, 3009, 3010, 4000, 4001, 4002, 4003, 4004, 4005, 4006, 4007, 4008, 4009, 4010, 4011, 4012, 4013, 4014, 4015, 4016.

- b. The boundaries of Council District No. 1 are: on the north, 2100 South Expressway (the northern boundary of West Valley City) from 3200 West to the Jordan River, south on the Jordan River to 4100 South, west on 4100 South to 3200 West, then north to 2100 South Expressway.
- (2) Council District No. 2 shall consist of the following Salt Lake County Census Tracts and Blocks:
- a. Census Tracts 1134.11, 1135.19, 1135.20; Census Tract 1133.04, Blocks 5000, 5001, 5002, 5003, 5004, 5005, 5006, 5007, 5008, 5009, 5010, 5011, 5012, 5013, 5014, 5015, 5016, 6000, 6001, 6002, 6003, 6004, 6005, 6006, 6007, 6008, 6009, 6010, 6011, 6012, 6013, 6014, 6015, 6016, 6017, 6018; Census Tract 1133.07, Blocks 3002, 3003, 3004, 3005, 3006, 3007, 3008, 3009, 3010, 3015, 3016, 3017, 3018, 3019, 3020, 3021, 3022, 4007, 4008, 4009, 4010, 4011, 4012, 4013, 4014, 4015, 4016, 4017, 4018, 4019, 4020, 4021, 4022, 4023, 4024, 4025, 4026; Census Tract 1133.08, Blocks 3000, 3001, 3002, 3003, 3004, 3005, 3006, 3007, 3008, 3009, 3010; Census Tract 1134.05, Blocks 1000, 1001, 1002, 1003, 1004, 1005, the portions of Blocks 1008 and 1009 that are on the east side of the 4800 West section line, 1010, 1011, 1012, 1013, 1014, 1015, the portion of 1016 that is on the east side of the 4800 West section line, 1017, 1018, 1019, 1020, 1021, 1022, 1023, 1024, 1025, 1026, 1027, 1028, 1029, 1030, 1031, 1032, 1050, 1051, 1052, 1053, 1054, 1058, 1059, 1060, 1061, 1062, 1063, 1064, 1065, 1066, 1067, 1068, 1069, 1070, 1071, 1072, 1073, 1074, 1074, 1076, 1077, 1078, 1079, 1080, 1081; Census Tract 1134.06, Blocks 1000, 1001, 1002, 1003, 1004, 1005, 1006, 1007, 1008, 1009.
 - b. The boundaries of Council District No. 2 are: on the north, 2100 South Expressway from 4800 West to 3200 West, south on 3200 West to 4100 South, east on 4100 South to 2700 West, south on 2700 West to 4700 South, west on 4700 South to 4000 West, north on 4000 West to 3100 South, west on 3100 South to 4800 West, then north to 2100 South Expressway.
- (3) Council District No. 3 shall consist of the following Salt Lake County Census Tracts and Blocks:
- a. Census Tract 1134.10, 1134.12, 1134.13, 1135.05; 1134.05, Blocks 1006, 1007, the portions of Blocks 1008, 1009 and 1016 that are on the west side of the 4800 West section line, 1034, 1035, 1036, 1037, 1038, 1039, 1040, 1041, 1042, 1043, 1044, 1045, 1046, 1047, 1048, 1049, 1055, 1056, 1057; Census Tract 1134.06, Blocks 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 3000, 3001, 3002, 3003, 3004, 3005, 3006, 3007, 3008, 3009, 3010, 3011, 3012, 3013, 3014, 3015, 3016, 3017, 3018, 3019, 3020, 3021, 3022, 3023, 3024; Census Tract 1134.09, Blocks 1000, 1001, 1002, 1003, 1004, 1005, 1006, 1007, 1008, 1009, 1010.
 - b. The boundaries of Council District No. 3 are: on the north, 2100 South Expressway from 5600 West to 4800 West, south on 4800 West to 3100 South, east on 3100 South to 4000 West, south on 4000 West to 4700 South, west on 4700 South to 4800 West, north on 4800 West to 4100 South, west on 4100 South to 6000 West, north on 6000 West to 3500 South, east on 3500 South to 5600 West, then north to 2100 South Expressway.
- (4) Council District No. 4 shall consist of the following Salt Lake County Census Tracts and Blocks:
- a. Census Tracts 1134.07, 1134.08, 1135.17, 1135.25; Census Tract 1134.09, Blocks 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 3000, 3001, 3002, 3003, 3004, 3005, 3006, 3007, 3008, 3009, 3010, 3011, 3012, 3013, 3014; Census Tract 1135.26, Block 1002, 1003, 1005, 1006, 1009, 1010, 1024, 1025, 1026, 1027, 1028, 2001; Census Tract 1135.29, Blocks 1016, 1018, 1019, 1020, 1021, 1022, 1023, 1024, 1025, 1026, 1027, 1028, 1029, 1030, 1031, 1035; Census Tract 1139.01, Blocks 1198,

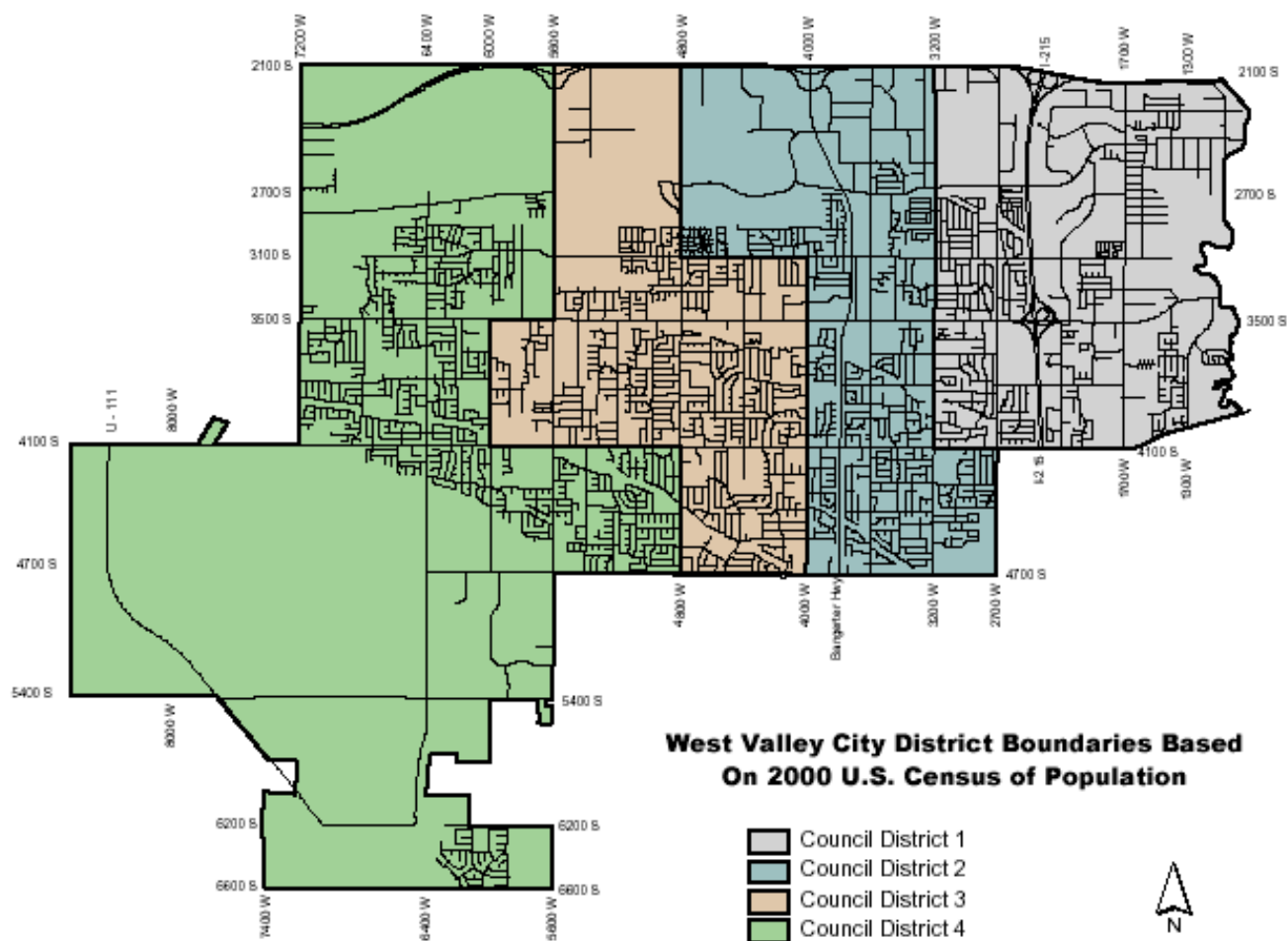
1199, 1200, 1201, 1202, 1203, 1208, 1209, 1210, 1211, 1212, 1213, 1214, 1215, 1216, 1217, 1218, 1224, 1240, 1245, 1246, 1247, 1248; Census Tract 1139.05, Block 3007.

- b. The boundaries of Council District No. 4 are: on the north, 2100 South Expressway from 7200 West to 5600 West, south on 5600 West to 3500 South, west on 3500 South to 6000 West, south on 6000 West to 4100 South, east on 4100 South to 4800 West, south on 4800 West to 4700 South, west on 4700 South to 5600 West, south on 5600 West to 5400 South, follows the City boundary on the south and west to the western-most boundary of the City, north to 4100 South, east on 4100 South following the boundary of the City to 7200 West and north on 7200 West to 2100 South.

(Ord. No. 02-14 Amended 02/05/2002)

2-3-104. DISCREPANCIES AND OFFICIAL MAP.

- (1) If any area of West Valley City is omitted from the plan established in Section 2-3-103, inadvertently or by virtue of the complexities of the Census Bureau or information supplied to the Legislature, the City Recorder, upon discovery of the omission, shall include the area in the appropriate district if the area is surrounded by a council district.
- (2) The attached map, and entitled "West Valley City District Boundaries Based On 2000 U.S. Census of Population," is the official map of the district boundaries for the City. If there are any discrepancies in the boundaries as described in Section 2-3-103 above, the official map shall be determinative of the boundaries of the council districts.



(Ord. No. 02-14 Amended 02/05/2002)

2-3-105. EFFECTIVE DATE OF BOUNDARY CHANGE.

The City Council members representing Districts 2, 3 and 4 shall represent the realigned districts upon the effective date of this Ordinance.

(Ord. No. 02-14 Amended 02/05/2002)

CHAPTER 2-4 CAMPAIGN FINANCIAL DISCLOSURE

Sections:

- 2-4-101. Definitions.
 - 2-4-102. Campaign Financial Disclosure.
 - 2-4-103. Time for Filing Disclosure Statements.
 - 2-4-104. Content of Disclosure Statement.
 - 2-4-105. Public Records.
 - 2-4-106. Penalty.
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2-4-101. DEFINITIONS.

- (1) "Candidate" shall mean any person who files a declaration of candidacy for an elective office of the City; or who is nominated by a committee or party; or who receives contributions or makes expenditures or consents to another person's receiving contributions or making expenditures with a view to bring about such person's nomination or election to such office; or who causes, in his behalf, any written material or advertisement to be printed, published, broadcast, distributed, or disseminated that indicates an intention to seek office.
- (2) "Contribution" shall mean a gift of cash or non-monetary items, such as in-kind contributions and contributions of tangible items, but shall not include personal services provided without compensation by individuals volunteering time in behalf of a candidate.
- (3) "Election" shall mean primary, general, and final elections.
- (4) "Expenditure" shall mean a purchase, payment, distribution, loan, advance, deposit, gift of money, or anything of value made for the purpose of influencing the nomination or election of any candidate.
- (5) "Reporting Date" means:
 - a. ten days before a municipal general election, for a campaign finance statement required to be filed no later than seven days before a municipal general election; and
 - b. the day of filing, for a campaign finance statement required to be filed no later than 30 days after a municipal primary or general election.

(Ord. No. 95-40 Enacted 08/24/1995; Ord. No. 05-30 Amended 07/05/2005)

2-4-102. CAMPAIGN FINANCIAL DISCLOSURE.

Each candidate for elective office in West Valley City shall file with the City Recorder a signed, dated, and sworn campaign financial statement that complies with the provisions of this Chapter.

(Ord. No. 93-07 Enacted 03/10/1993; Ord. No. 95-40, Ren & Amd, 08/24/1995, 2-4-101)

2-4-103. TIME FOR FILING DISCLOSURE STATEMENTS.

- (1) The statements required by this Chapter shall be filed no later than seven days prior to any election and within 30 days following any final election.

- (2) Candidates for elective office who are eliminated at a primary election shall file a signed campaign financial statement containing the information required by Subsection 2-4-104(2) within 30 days following the primary election.
- (3) A campaign finance statement required under this Chapter shall be considered filed if it is received in the recorder's office by 5 p.m. on the date that it is due.

(Ord. No. 95-40 Enacted 08/24/1995; Ord. No. 05-30 Amended 07/05/2005)

2-4-104. CONTENT OF DISCLOSURE STATEMENT.

- (1) The statement filed seven days prior to an election shall include:
 - a. A list of each contribution of more than \$50 received by the candidate, and the name of the donor;
 - b. An aggregate total of all contributions of \$50 or less received by the candidate; and
 - c. A list of each expenditure for political purposes made during the campaign period, and the recipient of each expenditure.
- (2) The statement filed within 30 days following any final election shall include:
 - a. A list of each contribution of more than \$50 received after the cutoff date for the statement filed seven days before the election, and the name of the donor;
 - b. An aggregate total of all contributions of \$50 or less received by the candidate after the cutoff date for the statement filed seven days before the election; and
 - c. A list of all expenditures for political purposes made by the candidate after the cutoff date for the statement filed seven days before the election, and the recipient of each contribution.

(Ord. No. 95-40 Enacted 08/24/1995)

2-4-105. PUBLIC RECORDS.

The statements required by this Chapter shall be public records, available for public inspection and copying during regular City business hours, within one business day after the statement is filed.

(Ord. No. 95-40 Enacted 08/24/1995; Ord. No. 05-30 Amended 07/05/2005)

2-4-106. PENALTY.

Any person who fails to comply with this Chapter is guilty of an infraction, in addition to the following:

- (1) If a candidate fails to file a campaign finance statement before the municipal general election by the deadline specified in Subsection (2)(a)(i)(A), recorder shall inform the appropriate election official who:
 - a. shall:
 - (i) if practicable, remove the candidate's name from the ballot by blacking out the candidate's name before the ballots are delivered to voters; or
 - (ii) if removing the candidate's name from the ballot is not practicable, inform the voters by any practicable method that the candidate has been disqualified and that votes cast for the candidate will not be counted; and
 - (iii) may not count any votes for that candidate.

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- b. Notwithstanding Subsection (6)(a), a candidate who files a campaign finance statement seven days before a municipal general election is not disqualified if:
- (i) the statement details accurately and completely the information required under Subsection (2)(b), except for inadvertent omissions or insignificant errors or inaccuracies; and
 - (ii) the omissions, errors, or inaccuracies are corrected in an amended report or in the next scheduled report.

(Ord. No. 93-07 Enacted 03/10/1993; Ord. No. 95-40, Renumbered and Amended 08/24/1995, 2-4-102; Ord. No. 05-30 Amended 07/05/2005)

CHAPTER 2-5 PRIVATE PROPERTY PROTECTION ACT

Sections:

- 2-5-101. Policy Considerations.
- 2-5-102. Definitions.
- 2-5-103. Guidelines Advisory.
- 2-5-104. Review of Decision.
- 2-5-105. Reviewing Guidelines.
- 2-5-106. Results of Review.

2-5-101. POLICY CONSIDERATIONS.

There is an underlying policy in the City strongly favoring the careful consideration of matters involving constitutional taking claims, in fairness to the owner of private property bringing the claim and in view of the uncertainty and expense involved in defending lawsuits alleging such issues. At the same time, the legitimate role of government in lawfully regulating real property must be preserved, and the public's right to require the dedication or exaction of property must be consistent with the Constitution. Consistent with this policy, it is desired that a procedure be established for the review of actions that may involve the issue of a constitutional taking. These provisions are to assist governments in considering decisions that may involve constitutional takings. It is intended that a procedure for such a review be provided, as well as guidelines for such considerations. This ordinance is further intended and shall be construed to objectively and fairly review claims by citizens that a specific government action should require payment of just compensation, yet preserve the ability of the City to lawfully regulate real property and fulfill its other duties and functions.

(Ord. No. 94-124 Enacted 12/06/1994)

2-5-102. DEFINITIONS.

(1) "Constitutional Taking" means:

- a. Actions by the City involving the physical taking or exaction of private real property that might require compensation to a private real property owner because of:
 - i. The Fifth or Fourteenth Amendment to the Constitution of the United States;
 - ii. Article I, Section 22, of the Utah Constitution; or
 - iii. Any Court ruling governing the physical taking or exaction of private real property by a government entity.
- b. Actions by the City involving the physical taking or exaction of private real property is not a constitutional taking if the physical taking or exaction:
 - i. Bears an essential nexus to (a);
 - ii. Is a legitimate governmental interest; and
 - iii. Is roughly proportionate and reasonably related, on an individualized property basis, both in nature and extent, to the impact of the proposed development on the legitimate government interest.

(Ord. No. 94-124 Enacted 12/06/1994)

2-5-103. GUIDELINES ADVISORY.

The guidelines adopted and decisions rendered pursuant to the provisions of this Section are advisory and shall not be construed to expand or limit the scope of the City's liability for a constitutional taking. The reviewing body or person shall not be required to make any determination under this ordinance except pursuant to Section 2-5-104.

(Ord. No. 94-124 Enacted 12/06/1994)

2-5-104. REVIEW OF DECISION.

Any owner of private real property who claims that there has been a constitutional taking of the owner's private real property shall request a review of a final decision of any officer, employee, board, commission, or council. The following are specific procedures established for such a review:

- (1) The person requesting a review must have obtained a final and authoritative determination, internally, within the City, relative to the decision from which the person is requesting review.
- (2) Within 30 days from the date of the final decision that gave rise to the concern that a constitutional taking has occurred, the person requesting the review shall file, in writing, in the Office of the City Recorder, a request for review of that decision. A copy shall also be filed with the City Attorney.
- (3) The City Council, or an individual or body designated by the City Council, shall immediately set a time to review the decision that gave rise to the constitutional takings claim.
- (4) In addition to the written request for review, the applicant must submit, prior to the date of the review, the following:
 - a. The name of the applicant requesting review;
 - b. The name and business address of the current owner of the property; the form of ownership, whether sole proprietorship, for-profit, or not-for-profit corporation, partnership, joint venture, or other; and if owned by a corporation, partnership, or joint venture, the name and address of all principal shareholders or partners;
 - c. A detailed description of the grounds for the claim that there has been a constitutional taking;
 - d. A detailed description of the property taken;
 - e. Evidence and documentation as to the value of the property taken, including the date and cost at the date the property was acquired. This should include any evidence of the value of that same property before and after the alleged constitutional taking, the name of the party from whom purchased, including the relationship, if any, between the person requesting a review and the party from whom the property was acquired;
 - f. The nature of the protectable interest claimed to be affected, such as, but not limited to, fee simple ownership and leasehold interest;
 - g. The terms (including sale price) of any previous purchase or sale of a full or partial interest in the property in the three years prior to the date of application;
 - h. All appraisals of the property prepared for any purpose, including financing, offering for sale, or ad valorem taxation, within three years prior to the date of application;
 - i. The assessed value of and ad valorem taxes on the property for the previous three years;
 - j. All information concerning current mortgages or other loans secured by the property, including the name of the mortgagee or lender, the current interest rate, the remaining

- loan balance and term of the loan, and other significant provisions, including but not limited to, right of purchasers to assume the loan;
- k. All listing of the property for sale or rent, price asked, and offers received, if any, within the previous three years;
 - l. All studies commissioned by the petitioner or agents of the petitioner within the previous three years concerning feasibility of development or utilization of the property;
 - m. For income producing property, the itemized income and expense statements from the property for the previous three years;
 - n. Information from a title policy or other source showing all recorded liens or encumbrances affecting the property; and
 - o. The City Council, or its designee, may request additional information reasonably necessary, in its opinion, to arrive at a conclusion concerning whether there has been a constitutional taking.
- (5) An application shall not be deemed to be "complete" or "submitted" until the reviewing body/official certifies to the applicant that all the materials and information required above have been received by the City. The reviewing board/official shall promptly notify the applicant of any incomplete application.
- (6) The City Council, or an individual or body designated by it, shall hear all the evidence related to and submitted by the applicant, City, or any other interested party.
- (7) A final decision on the review shall be rendered within 14 days from the date the complete application for review has been received by the City Recorder. The decision of the City Council regarding the results of the review shall be given in writing to the applicant and the officer, employee, board, commission, or council that rendered the final decision that gave rise to the constitutional takings claim.
- (8) If the City Council fails to hear and decide the review within 14 days, the decision appealed from shall be presumed to be approved.

(Ord. No. 94-124 Enacted 12/06/1994)

2-5-105. REVIEWING GUIDELINES.

The City Council shall review the facts and information presented by the applicant to determine whether or not the action by the City constitutes a constitutional taking as defined in this Chapter. In doing so, it shall consider:

- (1) Whether the physical taking or exaction of the private real property bears an essential nexus to a legitimate governmental interest;
- (2) Whether a legitimate governmental interest exists for the action taken by the City; and
- (3) If the property and exaction taken is roughly proportionate or reasonably related, on an individual property basis, both in nature and extent, to the impact caused by the activities that are the subject of the decision being reviewed.

(Ord. No. 94-124 Enacted 12/06/1994)